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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of EIKENBROEK :
U.S. Application No.: 10/550,568 :
PCT Application No.: PCT/SE2004/000369 :
Int. Filing Date: 12 March 2004 :
Priority Date Claimed: 03 April 2003 :
Attorney Docket No.: P16277-US1 :
For: METHOD AND SYSTEM OF JITTER :
COMPENSATION :

DECISION

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.181" filed 15 September 2008.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/SE2004/000369, which claimed priority of an earlier Sweden application filed 03 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 October 2005.

On 27 September 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 May 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 17 June 2008, applicant a petition under 37 CFR 1.181.

On 16 July 2008, this Office mailed a decision dismissing the 17 June 2008 petition.

On 15 September 2008, applicant filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition states that the Notification of Missing Requirements was never received. Petitioner has previously provided a statement from the practitioner that the correspondence was not received. Furthermore, the renewed petition contains a statement that a search of the practitioner's file records revealed that the correspondence was not received and a statement describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Additionally, the renewed petition includes a copy of the master docket record for the practitioner's firm, listing all replies docketed for the due date for reply to the Notification of Missing Requirements. Such docket record indicates that no response was due on 22 July 2006 for the present application.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 22 May 2008 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 12 March 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 15 September 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



Bryan Lin
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459